

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE and
SHAWN SHORT,

Plaintiff,

- against -

ELIOT SPITZER, in his official capacity as Governor of the State of New York, ANDREW CUOMO, in his official capacity as Attorney General of the State of New York, MICHAEL HOGAN, in his official capacity as Commissioner of the New York State Office of Mental Health, DIANA JONES RITTER, in her official capacity as Commissioner of the New York State Office of Mental Retardation and Developmental Disabilities, and BRIAN FISCHER, in his official capacity as Commissioner of the New York State Department of Correctional Services,

Defendants.

ANSWER

07-CV-2935 (GEL)

Defendants by their attorney, ANDREW M. CUOMO, Attorney General of the State of New York, as and for their Answer to the Complaint filed April 12, 2007, in this action allege as follows:

1. Admit "41", "42", "44", "45", "47", "48", "50", "51", and "53".
2. Deny "40", "56", "57", "59", "60", "64", "65", "69", "72", "73", "80", "83", "84", and "87".
3. Deny knowledge or information sufficient to form a belief as to "2" and "3".

4. Deny "1", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "43", "46", "49", "52", "55", "59", "62", "63", "67", "68", "71", "75", "76", "78", "79", "82", and "85", and refer this Court to the authorities Plaintiff purports to recite for their correct context and meaning.

5. In response to "54", "58", "61", "66", "70", "74", "77", "81", and "86" repeat and reallege the responses made to the relevant paragraphs.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:

6. The Complaint fails to state claims on which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE, DEFENDANTS ALLEGE:

7. This Court lacks subject matter jurisdiction based on abstention doctrines and/or should decline to exercise subject matter jurisdiction based on abstention doctrines and should allow the claims and issues asserted by Plaintiffs to be decided by New York State courts.

WHEREFORE, Defendants request that the court deny the relief requested by plaintiffs, dismiss the Complaint, award to Defendants such costs and attorney fees as may be allowed by law,

and grant such further relief as may be necessary or reasonable.

Dated: New York, New York
December 17, 2007

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of New York
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By:

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TO:

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Docket Number 07-CV-2935 (GEL)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE and SHAWN SHORT,

Plaintiffs,

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Defendants.

ANSWER

ANDREW M. CUOMO
Attorney General of the State of
New York

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(212) 416 - 8641

Personal Service of a copy of the within is admitted this

_____ day of _____ 2007
